

OFFICE OF THE GENERAL COUNSEL  
Division of Operations-Management

MEMORANDUM OM 94-81

September 9, 1994

TO All Regional Directors, Officers-in-Charge,  
and Resident Officers

FROM William G. Stack, Associate General Counsel

SUBJECT: Proper and Timely Service of Charges

This memorandum is to establish *procedures* to assure that charging parties in unfair labor practice cases are aware of their responsibility to make proper and timely service of charges on the party against whom the charge is filed. The obligations in this regard are described in Attachment A.

Accordingly, when an Individual files a charge in person, a copy of Attachment A should be provided to the charging party. If a written or telephonic inquiry results in your mailing of a copy of a blank charge form to a *prospective* charging party, the text of Attachment B should be used in your cover letter and Attachment A should also be enclosed. While many labor attorneys, consultants and union officials may have a supply of blank ULP forms and periodically mail charges to the Regional Office, we presume that, because of their familiarity with their obligations under the Act, no reminder is necessary with regard to timely and proper service.

In drafting *replies* to written inquiries that require a discussion of Section 10(b) of the Act or *the timeliness* of the filing of a charge, Regions should include a discussion of the responsibility to provide proper and timely *service*. The first paragraph of Attachment H may be adapted for such correspondence.

Finally, this memorandum should also serve to remind Board agents that, while *Regional* service of charges will continue, it is only a routine courtesy and the responsibility of proper and timely *service* remains with the charging party. Agents should never indicate that the Region will satisfy the charging party's service obligation.

/s/  
W.S.G.

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W. G. S.



## Attachment A

### OBLIGATION OF PERSON FILING A CHARGE IMPORTANT INFORMATION FOR CHARGING PARTIES

Under the Board's Rules and Regulations (Section 102.14) you, as the Charging Party, are responsible for the timely and proper service of a *copy of* the charge upon the person against whom the charge is made.

The Regional Director routinely causes a copy of the charge to be served on the person against whom the charge is made, but the Director is not responsible for such service. That responsibility remains with you.

Pursuant to the Board's Rules and Regulations (Section 102.114(a))', proper service may be accomplished by registered mail, or by certified mail, or in any manner provided for the service of papers in a civil action by the law of the State in which any subsequent hearing will be conducted. When service is made by registered mail or by certified mail, the return post office receipt shall be proof of service. When service is made in *any manner* provided by the law of a State, *proof* of service will be in accord with such law.

As noted in Section 102.14 of the Rules and Regulations, service of the charge must be timely as well as proper. When a charge must be served is specified by Section 10(b) of the National Labor Relations Act, which provides that no complaint shall issue based upon *any* unfair labor practice occurring more than 6 months prior to the filing and service of the charge. While the best course always is to provide service without delay, if the time of the alleged unfair labor practice in your charge is approaching 6 months, you should provide the required service immediately.

After you serve the charge, submit to the Board agent handling your charge a written statement of service stating the names of the parties served and the date and manner of service. If you serve the charge by mail, the post office receipt or other proof of service should be retained by you. (If you wish, you

Service of papers by a party on the other parties shall be made by registered mail, or by certified mail, or in any manner provided for the service of papers in a civil action by the law of the State in which the hearing is pending. . When service is made by registered mail, or by certified mail, the return post office receipt shall be proof of service. When service is made in any manner provided *by the* law of a State, proof of service shall be made in accordance with such law. Failure to comply with the requirements of this section .. shall be a basis for either:

- (1) a rejection of the document or
- (2) withholding any ruling on the subject matter raised by the document until after service has been made ...

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*may* furnish the Board with a photocopy.) It shall be required by the Board only if a question is subsequently raised with respect to proper service.

Finally, failure to comply with these requirements may result in the delay of the investigation or dismissal of the charge.

## ATTACHMENT B

### Language for letters

Additionally, you should be aware that Section 10(b) of the National Labor Relations Act provides that no complaint shall issue based upon any unfair labor practice occurring more than 6 months prior to the filing and service of the charge. Therefore, you should not delay in contacting our

Regional Office. Furthermore, in the event that you decide to file a charge, Section 102.14 of the Board's Rules and Regulations states that the responsibility is yours to timely and properly serve a copy of the charge on the person against whom such charge is made.

Accordingly, if you decide to file a charge, in addition to sending a completed copy of the attached unfair labor practice charge form to the Regional Office, a copy of the completed form should be timely and properly served on the party against whom the charge is filed. Instructions concerning proper and timely service are attached.